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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/620,123	07/15/2003	Alois Schoenweger	3201-338 (D4700-00351)	7851
8933	7590	08/01/2007	EXAMINER	
DUANE MORRIS, LLP			GROSSO, HARRY A	
IP DEPARTMENT			ART UNIT	
30 SOUTH 17TH STREET			PAPER NUMBER	
PHILADELPHIA, PA 19103-4196			3781	
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			08/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/620,123

Applicant(s)

SCHOENWEGER, ALOIS

Examiner

Harry A. Grosso

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 7-10, 12 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17 and 18 is/are allowed.
- 6) ☒ Claim(s) 1-4, 10, 12, 15 and 16 is/are rejected.
- 7) ☒ Claim(s) 7-9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Objections

The objection to claim 16 has been overcome by the amendment filed June 1, 2007. The objection is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Humber, of record, in view of Lengyel et al (5,466,886) (Lengyel).

1. Regarding claim 1, Humber discloses a flush-mounting box with an open front, an edge, sidewalls, a base (Figures 1- 4) and a flange (42). The device has plural means on the box (48) for fastening the flange and the flange can be fastened a variable distance from the front edge (column 2, lines 15-22). Plumbing elements can be installed within the box through openings (fittings) in the sidewalls (Figure 4).

Humber does not teach protruding eyes extending radially outward from the sidewalls adjacent to the base. Lengyel discloses a flush-mounting box with attachment means around the front opening and eyes extending radially outward from the sidewalls adjacent to the base for mounting (40, Figure 1, column 4, lines 46-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to

have incorporated the use of eyes extending from the sidewalls adjacent to the base as disclosed by Lengyel in the box disclosed by Humber to provide means for mounting.

2. Regarding claim 2, Humber discloses the flange is a solid ring (Figure 1).

3. Regarding claims 4 and 12, Humber discloses the flange is fastened directly to the box from the open front of the box.

4. Regarding claim 15, Humber discloses the flange may be latched into position (column 2, lines 15-22).

5. Claims 1-4, 10 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bossert, of record, in view of Condon.

6. Regarding claim 1, Bossert discloses a flush-mounted box with an open front (Figures 4 and 5), an edge (y), and a flange (a) on an outside of the box. The box has plural means (m) for fastening the flange to the box at variable distance back from the edge (page 1, lines 79-94). Plumbing elements can be installed within the box through openings (fittings) in the device created by removing typical knock-outs.

Bossert does not teach protruding eyes extending radially outward from the sidewalls adjacent to the base. Lengyel discloses a flush-mounting box with attachment means around the front opening and eyes extending radially outward from the sidewalls adjacent to the base for mounting (40, Figure 1, column 4, lines 46-52). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of eyes extending from the sidewalls adjacent to the base as disclosed by Lengyel in the box disclosed by Bossert to provide means for mounting.

7. Regarding claim 2, the flange is a solid ring (Figure 1).

8. Regarding claim 3, the device has a plurality of structures spaced back from the edge at the open front on the outer surface of the sidewall for fastening the flange.
9. Regarding claim 4, the flange is fastened directly to the box.
10. Regarding claim 10, the joint between the box and the flange is a bayonet joint.
11. Regarding claim 16, Bossert discloses a flush mounting box that has an open front at edge (y), a plurality of grooves on the outside of the sidewalls of the box (m) at different distances from the edge and a flange (a) with inward protrusions (e) that engage the grooves.

Allowable Subject Matter

12. Claims 17 and 18 are allowed.
13. Claims 7-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

14. Applicant's arguments with respect to claims 1-4, 7-10, 12, 15 and 16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chubb et al (5,326,060) discloses a flush mounting box with eyes extending radially outward.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3781

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Anthony Stashick
Supervisory Patent Examiner
Art Unit 3781

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